

1 BRAD D. BRIAN (State Bar No. 79001)
2 brad.brian@mto.com
3 HAILYN J. CHEN (State Bar No. 237436)
4 hailyn.chen@mto.com
5 JORDAN D. SEGALL (State Bar No. 281102)
6 jordan.segall@mto.com
7 MUNGER, TOLLES & OLSON LLP
8 350 South Grand Avenue, 50th Floor
9 Los Angeles, California 90071
10 Telephone: (213) 683-9100
11 JONATHAN H. BLAVIN (State Bar No. 230269)
12 jonathan.blavin@mto.com
13 JOSHUA PATASHNIK (State Bar No. 295120)
14 josh.patashnik@mto.com
15 MUNGER, TOLLES & OLSON LLP
16 560 Mission Street, 27th Floor
17 San Francisco, California 94105
18 Telephone: (415) 512-4000
19
20 Attorneys for Defendants
21 AIRBNB, INC. and AIRBNB PAYMENTS, INC.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

19 LA PARK LA BREA A LLC, LA
20 PARK LA BREA B LLC, LA PARK
21 LA BREA C LLC, and AIMCO
VENEZIA, LLC.

Case No.: 2:17-cv-04885

NOTICE OF REMOVAL OF CIVIL ACTION

(Los Angeles County Superior Court
Case No. BC650575)

Plaintiffs.

V.

AIRBNB, INC. and AIRBNB PAYMENTS, INC.

Defendants

1 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

2 PLEASE TAKE NOTICE that Defendants Airbnb, Inc. and Airbnb Payments,
3 Inc. hereby remove the above-captioned matter, which was commenced as Case
4 Number BC650575 in the Superior Court of the State of California for the County of
5 Los Angeles, to the United States District Court for the Central District of
6 California, Western Division, pursuant to the Class Action Fairness Act (“CAFA”),
7 28 U.S.C. § 1332(d), and 28 U.S.C. §§ 1441 and 1446. In support of their Notice of
8 Removal, Defendants state the following:

9 1. Defendants Airbnb, Inc. and Airbnb Payments, Inc. both are
10 incorporated in Delaware with their principal places of business in California.

11 2. Plaintiffs first served Defendants with a summons and a copy of the
12 initial complaint in this action on or about February 14, 2017. That complaint did
13 not contain any class allegations, and was not removable under 28 U.S.C. § 1332(a).
14 *See id.* § 1441(b)(2).

15 3. On June 6, 2017, Plaintiffs filed the First Amended Complaint (“FAC”)
16 in this action. As stated in the FAC, Plaintiffs seek to represent a nationwide class
17 of owners of multi-unit apartment complexes. Defendants received a copy of the
18 FAC through service on June 6, 2017. This removal petition is therefore timely
19 under 28 U.S.C. § 1446(b)(3).

20 4. Plaintiffs seek to represent a class consisting of “[a]ll owners of multi-
21 unit apartment complexes located in the United States (1) at which Airbnb’s
22 business records show that Airbnb rental activity was conducted for one or more
23 apartments, (2) the host was not the owner of the apartment, and (3) Airbnb did not
24 pay all or a portion of Airbnb’s commission to the real property owner for the
25 Airbnb rental activity.” (FAC ¶ 68.)

26 5. Removal is proper under 28 U.S.C. § 1441(a) because this Court has
27 original jurisdiction over this action under CAFA, 28 U.S.C. § 1332(d). Defendants
28 dispute many of Plaintiffs’ allegations, including their class allegations, and dispute

1 whether a class in this case can or will be certified. Nonetheless, the allegations in
 2 the FAC make this case subject to removal to federal court under CAFA.

3 6. CAFA's diversity requirement is satisfied in this putative nationwide
 4 class action because one or more "member[s] of [the] class of plaintiffs is a citizen
 5 of a State different from any defendant." 28 U.S.C. § 1332(d)(2)(A). The proposed
 6 plaintiff class includes owners of multi-unit apartment complexes who are citizens
 7 of states other than California and Delaware, the only two states of which
 8 Defendants are citizens for purposes of federal diversity jurisdiction.

9 7. CAFA's amount-in-controversy requirement is satisfied because "the
 10 matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest
 11 and costs." 28 U.S.C. § 1332(d)(2). Among other forms of relief, Plaintiffs seek, on
 12 a class-wide basis, "restitution of the monies Airbnb has derived from short-term
 13 rentals of Plaintiffs' and Class Members' apartments" (FAC ¶ 95; *see also id.*
 14 ¶ 103), as well as damages for "the reasonable rental value of the units subject to the
 15 [alleged] illegal subletting, property damage, nuisance and disturbance, loss of
 16 rental income and other revenue, costs of providing additional security and
 17 monitoring for short-term rental activities, legal fees, and reputational damage to
 18 Plaintiffs' Properties" (FAC ¶¶ 122, 128.) Plaintiffs also seek injunctive relief
 19 prohibiting Defendants "from continuing" with certain business practices respecting
 20 apartments owned by Plaintiffs (FAC ¶ 96).

21 8. Defendants' business records and knowledge of relevant industry
 22 practices and valuations indicate that the value of the monetary relief sought by
 23 Plaintiffs, combined with the value of the injunctive relief sought by Plaintiffs,
 24 exceeds the sum or value of \$5,000,000, exclusive of interests and costs. *See, e.g.,*
 25 *Gonzales v. CarMax Auto Superstores, LLC*, 840 F.3d 644, 648–49 (9th Cir. 2016)
 26 ("[T]he amount in controversy ... includes, *inter alia*, damages (compensatory,
 27 punitive, or otherwise) and the cost of complying with an injunction, as well as
 28 attorneys' fees[.]"); *Anderson v. SeaWorld Parks & Ent'mt, Inc.*, 132 F. Supp. 3d

1 1156, 1164–65 (N.D. Cal. 2015) (finding \$5 million CAFA amount-in-controversy
2 requirement satisfied “based on the value of the injunction” sought by plaintiffs).

3 9. Although not necessary for purposes of this Notice of Removal, the
4 exceptions to CAFA removal set forth in 28 U.S.C. §§ 1332(d)(3)–(4) are not met in
5 this putative nationwide class action because less than “one-third … of the members
6 of all proposed plaintiff classes … are citizens of the State in which the action was
7 originally filed.” 28 U.S.C. § 1332(d)(3); *see also id.* § 1332(d)(4).

8 10. Although not necessary for purposes of this Notice of Removal, the
9 number of members of all proposed plaintiff classes in the aggregate is greater than
10 100. *See* 28 U.S.C. § 1332(d)(5)(B).

11 11. Defendants reserve the right to amend this Notice of Removal to assert
12 additional bases for federal jurisdiction. In addition, if Plaintiffs contest, or the
13 Court questions, whether the allegations in this Notice of Removal suffice to invoke
14 federal jurisdiction, Defendants reserve the right to submit evidence and argument to
15 the Court establishing that the jurisdictional requirements are met. *See Dart*
16 *Cherokee Basin Operating Co. v. Owens*, 135 S. Ct. 547, 554 (2014).

17 12. Removal to this judicial district and division is proper because they
18 “embrac[e]” Los Angeles County, the “place where [this] action is pending.” 28
19 U.S.C. § 1441(a).

20 13. Defendants are informed and believe that no defendant other than the
21 named defendants has been joined or served in this action.

22 14. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal will
23 be filed with the Clerk of the Superior Court of the State of California, County of
24 Los Angeles, and will be served on all parties. This Notice of Removal is signed
25 pursuant to Federal Rule of Civil Procedure 11. *See* 28 U.S.C. § 1446(a).

26 15. The following Exhibits attached to this Notice of Removal are true and
27 correct copies of the process, pleadings, and other papers that have been served on
28 Defendants in this action:

1 Exhibit A: First Amended Complaint

2 Exhibit B: First Amended Summons

3 Exhibit C: Original Complaint

4 Exhibit D: Original Summons

5 Exhibit E: Proof of Service of Summons

6 Exhibit F: Original Civil Case Cover Sheet (State Court)

7 BASED ON THE FOREGOING, Defendant hereby removes this action, now
8 pending in the Superior Court of the State of California for the County of Los
9 Angeles, Case No. BC650575, to the United States District Court for the Central
10 District of California, Western Division.

11

12 DATED: July 3, 2017 MUNGER, TOLLES & OLSON LLP

13

14

By: /s/ Jonathan H. Blavin

15

JONATHAN H. BLAVIN

16

Attorneys for Defendants AIRBNB, INC. and
AIRBNB PAYMENTS, INC.

17

18

19

20

21

22

23

24

25

26

27

28